

RECEIVED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUL - 1 2008
JUL 1 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

ORA Kuykendall

(Name of the plaintiff or plaintiffs)

CIVIL ACTION

08CV3746

JUDGE LINDBERG

MAG. JUDGE KEYS

Solo Cup Company

(Name of the defendant or defendants)

COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.
2. The plaintiff is ORA Kuykendall of the
county of _____ in the state of _____.
3. The defendant is Solo Cup Company, whose
street address is 7575 S. Kostner,
(city) Chicago (county) COOK (state) IL (ZIP) 60654
(Defendant's telephone number) 773-767-3300
4. The plaintiff sought employment or was employed by the defendant at (street address)
above (city) _____
(county) _____ (state) _____ (ZIP code) _____
5. The plaintiff [check one box]
(a) ☐ was denied employment by the defendant.
(b) ☐ was hired and is still employed by the defendant.
(c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about, (month) 9, (day) 23, (year) 2006.

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff [check one box] ☐ has ☒ has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

(i) ☐ the United States Equal Employment Opportunity Commission, on or about (month) _____ (day) _____ (year) _____.

(ii) ☒ the Illinois Department of Human Rights, on or about (month) 10 (day) 24 (year) 2006.

(b) If charges were filed with an agency indicated above, a copy of the charge is

attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☒ Yes (month) _____ (day) _____ (year) _____

☐ No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) _____ (day) _____ (year) _____.

c. Attached is a copy of the

a. Complaint of Employment Discrimination,

☒ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☒ NO, but a copy will be filed within 14 days.

8. *(Complete paragraph 8 only if defendant is not a federal governmental agency.)*

(a) ☒ the United States Equal Employment Opportunity Commission has not issued a *Notice of Right to Sue*.

(b) ☒ the United States Equal Employment Opportunity Commission has issued a *Notice of Right to Sue*, which was received by the plaintiff on (month) April (day) 4 (year) 2008 a copy of which *Notice* is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's *[check only those that apply]*:

- (a) ☒ Age (Age Discrimination Employment Act).
- (b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☒ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant *[check only those that apply]*

- (a) ☐ failed to hire the plaintiff.
- (b) ☒ terminated the plaintiff's employment.
- (c) ☐ failed to promote the plaintiff.

- (d) ☐ failed to reasonably accommodate the plaintiff's religion.
- (e) ☐ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☒ failed to stop harassment;
- (g) ☒ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☐ other (specify): _____
- _____
- _____
- _____

13. The facts supporting the plaintiff's claim of discrimination are as follows:

Solo Cup Work place harassment policy indicates that any employee who feels that they are an object of harassment should promptly report to his/her Manager. Which I have done on several occasions but the issue was never address by Management Therefore forcing me to protect myself from the angry defend (Anna)

14. **[AGE DISCRIMINATION ONLY]** Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ YES ☐ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
[check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.
- (b) ☒ Direct the defendant to re-employ the plaintiff.
- (c) ☐ Direct the defendant to promote the plaintiff.
- (d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) ☐ Direct the defendant to (specify): The defend would
like to be accommodate for all
loss wages. From 9-23-06 to present.
OR Re-employ of her job.

(g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☐ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Ora Kuykendall

(Plaintiff's name)

Ora Kuykendall

(Plaintiff's street address)

434 C Randon ave

(City) Cahmet (State) IL (ZIP) 60409

(Plaintiff's telephone number) (708) - 832 - 1656

Date:

6-25-08

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Ora Kuykendall**
434 Crandon
Calumet City, IL 60409

From: **Equal Employment Opportunity Commission**
Chicago District Office
500 West Madison Street
Suite 2800
Chicago, Illinois 60661-2511



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21B-2007-00215**Nola Smith, State & Local Coordinator****(312) 886-5973**

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this Notice, or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

APR 02 2008

John P. Rowe

John P. Rowe, District Director

Enclosure(s)

(Date Mailed)

cc: **SOLO CUP COMPANY**

FILING SUIT IN COURT OF COMPETENT JURISDICTION

PRIVATE SUIT RIGHTS:

This issuance of this Notice of Right to Sue ends EEOC's process with respect to your charge. You may file a lawsuit against the respondent named in your charge within 90 days from the date you receive this Notice. Therefore you should keep a record of this date. Once this 90-day period is over, your right to sue is lost. If you intend to consult an attorney, you should do so as soon as possible. Furthermore, in order to avoid any question that you did not act in a timely manner, if you intend to sue on your own behalf, your suit should be filed well in advance of the expiration of the 90-day period.

You may file your lawsuit in a court of competent jurisdiction. Filing this Notice is not sufficient. A court complaint must contain a short statement of the facts of your case which shows that you are entitled to relief. Generally, suits are brought in the state where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office.

You may contact EEOC if you have any questions about your rights, including advice on which court can hear your case, or if you need to inspect and copy information contained in the case file.

A lawsuit against a private employer is generally filed in the U.S. District Court.

A lawsuit under Title VII of the Civil Rights Act of 1964, as amended, against a State agency or a political subdivision of the State is also generally filed in the U.S. District Court.

However, a lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or, probably, the Equal Pay Act against a State instrumentality (an agency directly funded and controlled by the State) can only be filed in a State court.

A lawsuit under the Age Discrimination in Employment Act or the Americans with Disabilities Act or the Equal Pay Act against a political subdivision of the State, such as municipalities and counties, may be filed in the U.S. District Court.

For a list of U.S. District Courts, please see reverse side.

IF THE FIRST THREE CHARACTERS OF YOUR EEOC CHARGE NUMBER ARE "21B" AND YOUR CHARGE WAS INVESTIGATED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (IDHR), REQUEST FOR REVIEWING AND COPYING DOCUMENTS FROM YOUR FILE MUST BE DIRECTED TO IDHR.

ATTORNEY REPRESENTATION:

If you cannot afford or have been unable to obtain a lawyer to represent you, the court having jurisdiction in your case may, assist you in obtaining a lawyer. If you plan to ask the court to help you obtain a lawyer, you must make this request of the court in the form and manner it requires. Your request to the court should be made well before the end of the 90-day period mentioned above. A request for representation does not relieve you of the obligation to file a lawsuit within this 90-day period.

DESTRUCTION OF FILE:

If you file suit, you or your attorney should forward a copy of your court complaint to this office. Your file will then be preserved. Unless you have notified us that you have filed suit, your charge file could be destroyed as early as six months after the date of the Notice of Right to Sue.

IF YOU FILE SUIT, YOU OR YOUR ATTORNEY SHOULD NOTIFY THIS OFFICE WHEN THE LAWSUIT IS RESOLVED.

Information on Where to File Suit

You have been notified of your right to file suit in Federal District Court. Suit is ordinarily filed in the District Court having jurisdiction of the county in which the employer, against whom you filed a charge of employment discrimination, is located. The telephone number listed for each District is that of the Clerk of the Court.

U.S. District Court
Northern District of Illinois
Eastern Division at Chicago
219 South Dearborn Street
Chicago, Illinois 60604
312/435-5670

Counties

Cook	Kendall
DuPage	Lake
Grundy	LaSalle
Kane	Will

U.S. District Court
Northern District of Illinois
Western Division at Rockford
211 South Court Street
Federal Building
Rockford, Illinois 61101
815/987-4355

Counties

Boone	McHenry
Carroll	Ogle
DeKalb	Stephenson
JoDavies	Whiteside
Lee	Winnebago

U.S. District Court
Southern District of Illinois
750 Missouri Avenue
East St. Louis, Illinois 62201
618/482-9370

and

301 West Main Street
Benton, Illinois 62812
618/438-0671

Counties

Alexander	Johnson
Bond	Lawrence
Calhoun	Madison
Clark	Marion
Clay	Massac
Clinton	Monroe
Crawford	Perry
Cumberland	Pope
Edwards	Pulaski
Effingham	Randolph
Fayette	Richland
Franklin	St. Clair
Gallatin	Saline
Hamilton	Union
Hardin	Wabash
Jackson	Washington
Jasper	Wayne
Jefferson	White
Jersey	Williamson

U.S. District Court
Central District of Illinois
Danville/Urbana Division
201 North Vermillion
Danville, Illinois 61832
217/431-4805

and

201 South Vine
218 U.S. Courthouse
Urbana, Illinois 61801
217/373-5830

Counties

Champaign	Kankakee
Coles	Macon
Douglas	Moultrie
Edgar	Piatt
Ford	Vermilion
Iroquois	

Peoria Division
100 N.E. Monroe Street
135 Federal Building
Peoria, Illinois 61602
309/671-7117

Counties

Bureau	McLean
Fulton	Peoria
Hancock	Putnam
Knox	Stark
Livingston	Tazewell
Marshall	Woodford
McDonough	

Rock Island Division
211 - 19th Street
Rock Island, Illinois 61201
309/793-5778

Counties

Henderson	Rock Island
Henry	Warren
Mercer	

Springfield Division
600 East Monroe Street
Springfield, Illinois 62701
217/492-4020

Counties

Adams	Logan	Pike
Brown	Macoupin	Sangamon
Cass	Mason	Schuyler
Christian	Menard	Scott
DeWitt	Montgomery	Shelby
Greene	Morgan	

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.

07W1024.07

AGE Y

☒ IDHR☐ EEOC

CHARGE NUMBER

2007CF1099

Illinois Department of Human Rights and EEOC

NAME (Indicate Mr, Ms, Mrs.)

Ora Kuykendall

HOME TELEPHONE (Include area code)

(708) 832-1656

STREET ADDRESS

434 Crandon

CITY, STATE AND ZIP CODE

Calumet City, IL 60409

DATE OF BIRTH

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)

NAME

Solo Cup Company

NUMBER OF EMPLOYEES,
MEMBERS 15+

TELEPHONE (Include area code)

(773) 767-3300

STREET ADDRESS

7575 S. Kostner

CITY, STATE AND ZIP CODE

Chicago, IL 60634

COUNTY

Cook

CAUSE OF DISCRIMINATION BASED ON:

RACE

DATE OF DISCRIMINATION

EARLIEST (ADEA/EPA) LATEST (ALL)

10/2/06

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed attach extra sheets)

I. A. ISSUE/BASIS**HARASSMENT - APRIL 27, 2006 TO SEPTEMBER 23, 2006/DUE TO RACE, BLACK****B. PRIMA FACIE ALLEGATIONS**

1. My race is black.
2. My performance as packer was satisfactory. I started working for Respondent in September, 1983, and I had a good employment record.
3. From at least April 27, 2006 to September 23, 2006, I was continually harassed by Ann Plaws, a non-black coworker who talked to me in a demeaning manner; rolled her eyes

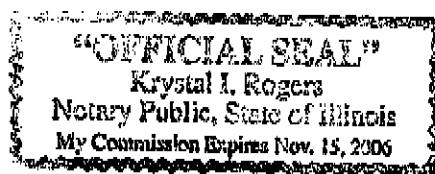
Continued...lgy

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS

NOTARY SIGNATURE

MONTH DATE-YEAR



NOTARY SEAL

 x Ora Kuykendall 10/24/06
 SIGNATURE OF COMPLAINANT DATE

I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

Charge Number: 2007CF1099
Complainant: Ora Kuykendall
Page 2

at me; insulted me; followed me around; and told others, especially new employees, false and negative things about me; and came to my work area to bother me, and on at least one occasion she kept hitting me with a spoon.

4. I complained to Terry Fidler, Supervisor, about the harassment, and he told me he would discharge me if I complained again. I told Bob (last name unknown), Manager, and he told me he could do nothing because it was my word against Ann's.
5. Non-black employees were not harassed in this manner.

II. A. ISSUE/BASIS

DISCHARGE - OCTOBER 2, 2006/DUE TO RACE, BLACK

B. PRIMA FACIE ALLEGATIONS

1. My race is black.
2. My performance as packer was satisfactory.
3. On October 2, 2006, I found out Thomas M. Dumasica, Human Resources Manager, discharged me, effective September 29, 2006. The reason given was hitting a coworker.
4. Ann Plaws, a non-black coworker who continually harassed me for several years, came to my work area and started hitting me with a spoon. I told her to stop and she continued. I was working with a tape gun, and on one of those times when she was hitting me, I moved as a reflex to her attack, and she claimed I hit her with the tape gun. I did not do it on purpose, and I do not believe I hit her hard, but I was discharged.
5. Plaws was not discharged when I complained about her. Another non-black employee was not discharged under similar circumstances.

lgv